

CCRB INVESTIGATIVE RECOMMENDATION

| | | | | | |
|---|-------------------------------------|---------------------------|--|---|--|
| Investigator: Ariel Courage | Team: Squad #6 | CCRB Case #: 201408837 | <input checked="" type="checkbox"/> Force | <input checked="" type="checkbox"/> Discourt. | <input type="checkbox"/> U.S. |
| | | | <input checked="" type="checkbox"/> Abuse | <input type="checkbox"/> O.L. | <input checked="" type="checkbox"/> Injury |
| Incident Date(s) Tuesday, 08/26/2014 11:55 PM | Location of Incident: [REDACTED] | Precinct: 46 | 18 Mo. SOL 2/26/2016 | EO SOL 2/26/2016 | |
| Date/Time CV Reported Wed, 08/27/2014 12:03 PM | CV Reported At: CCRB | How CV Reported: Phone | Date/Time Received at CCRB Wed, 08/27/2014 12:03 PM | | |

| Complainant/Victim | Type | Home Address |
|--------------------|------------|--------------|
| [REDACTED] | [REDACTED] | [REDACTED] |
| [REDACTED] | [REDACTED] | [REDACTED] |
| [REDACTED] | [REDACTED] | [REDACTED] |
| [REDACTED] | [REDACTED] | [REDACTED] |
| [REDACTED] | [REDACTED] | [REDACTED] |
| [REDACTED] | [REDACTED] | [REDACTED] |

| Witness(es) | Home Address |
|-------------|--------------|
| [REDACTED] | [REDACTED] |
| [REDACTED] | [REDACTED] |
| [REDACTED] | [REDACTED] |
| [REDACTED] | [REDACTED] |
| [REDACTED] | [REDACTED] |
| [REDACTED] | [REDACTED] |
| [REDACTED] | [REDACTED] |
| [REDACTED] | [REDACTED] |
| [REDACTED] | [REDACTED] |

| Subject Officer(s) | Shield | TaxID | Command |
|-------------------------|--------|--------|---------|
| 1. POM Thomas Accomando | 08316 | 949957 | 046 PCT |
| 2. POM Rafael Perdomo | 21268 | 942338 | 046 PCT |
| 3. POM Carlos Pineda | 07963 | 952118 | 046 PCT |
| 4. POM Luis Reyes | 23403 | 941122 | 046 PCT |
| 5. POM Daniel Almeida | 14076 | 951495 | 046 PCT |
| 6. An officer | | | 046 PCT |
| 7. Officers | | | 046 PCT |

| Witness Officer(s) | Shield No | Tax No | Cmd Name |
|---------------------------|-----------|--------|----------|
| 1. POF Janny Carrasquillo | 17343 | 950162 | 046 PCT |
| 2. SGT Edward Arias | 5050 | 941358 | 046 PCT |

| Officer(s) | Allegation | Investigator Recommendation |
|------------------------|---|-----------------------------|
| A.POM Thomas Accomando | Force: In the vicinity of § 87(2)(b) in the Bronx, PO Thomas Accomando used physical force against § 87(2)(b) | [REDACTED] |

| Officer(s) | Allegation | Investigator Recommendation |
|------------------------|---|-----------------------------|
| B.POM Luis Reyes | Force: In the vicinity of § 87(2)(b) in the Bronx, PO Luis Reyes used physical force against § 87(2)(b) | |
| C.POM Rafael Perdomo | Discourtesy: In the vicinity of § 87(2)(b) in the Bronx, PO Rafael Perdomo spoke rudely to § 87(2)(b) | |
| D.POM Rafael Perdomo | Force: In the vicinity of § 87(2)(b) in the Bronx, PO Rafael Perdomo struck § 87(2)(b) with an asp. | |
| E.POM Carlos Pineda | Abuse: PO Carlos Pineda entered § 87(2)(b) in the Bronx. | |
| F.POM Carlos Pineda | Discourtesy: At § 87(2)(b) in the Bronx, PO Carlos Pineda spoke rudely to § 87(2)(b) | |
| G. An officer | Force: At § 87(2)(b) in the Bronx, an officer struck § 87(2)(b) with an asp. | |
| H.POM Carlos Pineda | Force: At § 87(2)(b) in the Bronx, PO Carlos Pineda used physical force against § 87(2)(b) | |
| I. Officers | Force: At § 87(2)(b) in the Bronx, officers used physical force against § 87(2)(b) | |
| J. An officer | Force: At § 87(2)(b) in the Bronx, an officer used pepper spray against § 87(2)(b) | |
| K. An officer | Discourtesy: At § 87(2)(b) in the Bronx, an officer spoke rudely to § 87(2)(b) | |
| L. An officer | Abuse: At § 87(2)(b) in the Bronx, an officer threatened § 87(2)(b) with the use of force. | |
| M. An officer | Discourtesy: En route to the 46th Precinct stationhouse, an officer spoke rudely to § 87(2)(b) | |
| N.POM Daniel Almeida | Discourtesy: Inside the 46th Precinct stationhouse, PO Daniel Almeida spoke rudely to § 87(2)(b) | |
| O.POM Thomas Accomando | Abuse: Inside the 46th Precinct stationhouse, PO Thomas Accomando refused to provide his name and shield number to § 87(2)(b) | |

Case Summary

On August 27, 2014, § 87(2)(b) and § 87(2)(b) called the CCRB to file a complaint about this incident (encl. [4A-E]).

On August 26, 2014, at approximately 11:55 p.m., in the vicinity of § 87(2)(b) in the Bronx, PO Thomas Accomando and PO Luis Reyes of the 46th Precinct responded to a report of criminal mischief. Upon arrival, the victim of the criminal mischief pointed out § 87(2)(b) as the perpetrator. PO Accomando and PO Reyes allegedly used physical force against § 87(2)(b) in the course of effecting his arrest (**Allegations A and B**). A large crowd of civilians who were at a birthday party in front of § 87(2)(b) gathered around § 87(2)(b)'s arrest, and additional officers from the 46th Precinct responded.

§ 87(2)(b)'s friend, § 87(2)(b) was part of the crowd that gathered. One of the additional officers to respond, identified by the investigation as PO Rafael Perdomo of the 46th Precinct, allegedly told § 87(2)(b) to "Get the fuck back" (**Allegation C**) and struck him in the leg with his asp (**Allegation D**). § 87(2)(b) then ran to his house at § 87(2)(b) § 87(2)(b) pursued by PO Janny Carasquillo of the 46th Precinct. After § 87(2)(b) § 87(2)(b) allegedly punched PO Carasquillo, PO Carlos Pineda, also of the 46th Precinct, PO Perdomo, and multiple other unidentified officers entered § 87(2)(b) (**Allegation E**). § 87(2)(b)'s mother, § 87(2)(b) and sister, § 87(2)(b) were standing close to the entrance of § 87(2)(b) at the time entry was effected. § 87(2)(b) alleged that PO Pineda told her, "Get the fuck out of the way. Get the fuck down" (**Allegation F**), and that an unidentified officer struck her about her legs with an asp (**Allegation G**).

Inside § 87(2)(b) § 87(2)(b) locked himself in a bedroom, the door to which PO Pineda forced open. PO Pineda and additional unidentified officers allegedly punched § 87(2)(b) in his face, brought him to the ground, handcuffed him, and kicked him (**Allegation H** and **I**). An unidentified officer also allegedly pepper sprayed § 87(2)(b) (**Allegation J**). An unidentified officer allegedly told § 87(2)(b)'s brother, § 87(2)(b) "Shut the fuck up," and, after striking a wall in the house with his asp and causing a hole to form there, said, "Do you want this to happen to you? This could be your head." (**Allegations K** and **L**).

§ 87(2)(b) was arrested and transported back to the 46th Precinct stationhouse. En route to the 46th Precinct stationhouse, an unidentified officer allegedly told § 87(2)(b) “You’re not getting shit” (**Allegation M**). § 87(2)(b) alleged that inside the 46th Precinct stationhouse PO Daniel Almeida told him, “Get your ass in the cell” (**Allegation N**) and PO Thomas Accomando refused to provide his name and shield number to him (**Allegation O**).

This case was reassigned from Investigator Kastner to the undersigned on January 14, 2015.

Mediation, Civil, and Criminal Conviction Histories

This case was not eligible for mediation due to the arrests. A Notice of Claim request was submitted on April 28, 2015, and will be added to the case file upon receipt (encl. [8A]).

[REDACTED]
 [REDACTED]
 [REDACTED]
 [REDACTED]
 [REDACTED]
 [REDACTED]
 [REDACTED]

Civilian and Officer CCRB Histories

- This is the first CCRB complaint filed by § 87(2)(b) and § 87(2)(b) (encl. [2H-M]).
- PO Thomas Accomando has been a member of the service for three years. None of the prior allegations against him has been substantiated, § 87(2)(g).
- PO Luis Reyes has been a member of the service for service for nine years. None of the prior allegations against him has been substantiated, § 87(2)(g).
- PO Rafael Perdomo has been a member of the service for eight years. Of the 32 allegations made against him across 13 cases, three have been substantiated (encl. [2B-D]):
 - In CCRB case 200807227, an allegation of other blunt instrument as a club was substantiated. The Board recommended charges. PO Perdomo was found not guilty.
 - In CCRB case 201208682, allegations of discourtesy and threat of arrest were both substantiated and the Board recommended charges. PO Perdomo was found guilty.
- PO Carlos Pineda has been a member of the service for three years. None of the prior allegations against him has been substantiated, § 87(2)(g).
- PO Daniel Almeida has been a member of the service for three years. This is the first CCRB complaint filed against him (encl. [2G]).

Findings and Recommendations

Explanation of Subject Officer Identification

§ 87(2)(b) described the officer who struck him in the leg with his nightstick as a white man in his mid-30s, 5'9" tall, 200 pounds, with black hair. He also alleged that this officer said, "Move the fuck back," or, "Get the fuck away from me." PO Perdomo, a bald Hispanic male, 5'10" tall, and 215 pounds, loosely matches the provided description, and acknowledged that he attempted to keep § 87(2)(b) away from the scene of § 87(2)(b)'s arrest. As such, these allegations have been pleaded against him.

§ 87(2)(b) described the officer who first entered his home and used physical force against him as a white man in his mid-30s, approximately 5'11" to 6'0" tall, 220 pounds, with black hair. PO Pineda acknowledged that he was the first to enter the location. As such, allegations of an entry and physical force have been pleaded against PO Pineda.

§ 87(2)(b) thought that multiple additional officers used physical force against him, but could not estimate how many and could not describe them. Aside from PO Pineda, no other officer acknowledged using any physical force against him. As such, an allegation of physical force has been pleaded against 'officers' from the 46th Precinct.

§ 87(2)(b) could not tell which officer pepper sprayed him. None of the other witnesses and victims reached in this case saw which officer pepper sprayed § 87(2)(b) and none of the officers interviewed acknowledged pepper spraying him. As such, this allegation has been pleaded against 'an officer' of the 46th Precinct.

§ 87(2)(b) alleged that once he was placed in a police vehicle for transport to the 46th Precinct stationhouse, an officer who he did not see and therefore could not describe told him, "You're not getting shit." Although the investigation determined that PO Pineda and his

partner, PO Daniel Almeida, transported § 87(2)(b) to the 46th Precinct stationhouse, as § 87(2)(b) could not tell which of them made this statement, this allegation has been pleaded against ‘an officer’ of the 46th Precinct.

§ 87(2)(b) also alleged that an officer, described as a white male in his mid-30s, at least 6’0” tall, 240 pounds, with muscular build, told him inside the 46th Precinct stationhouse, “Get your ass in the cell.” PO Almeida and PO Pineda acknowledged that they transported § 87(2)(b) to the stationhouse. As PO Almeida, a white male, 5’9” tall, and 190 pounds, presents a closer match to the given description than PO Pineda. As such, an allegation of discourtesy has been pleaded against him.

§ 87(2)(b) said the officer fingerprinting him, a white or Indian olive-skinned man, 30 to 35 years old, 5’10” tall, 170 to 180 pounds, skinny, clean shaven, medium length black hair, no glasses or tattoos and wearing a black t-shirt, and who he did not remember having been on scene, refused to provide his name and shield to him upon his request. PO Thomas Accomando generally matches the provided description, and as the arresting officer would have primarily been responsible for handling § 87(2)(b)’s arrest processing. As such, this allegation has been pleaded against him.

§ 87(2)(b) described the officer who told him, “Shut the fuck up,” and asked, “Do you want this to happen to you? This could be your head,” before striking a wall in the hallway twice with his baton, as a uniformed white male, 30 to 34 years old, 5’8” to 5’9” tall, 145 to 155 pounds, with black hair. As was previously discussed, the investigation could not conclusively identify all officers who entered the home, nor were there any officer identified as responding to the scene who presented a close match to the given description. As such, this allegation has been pleaded against ‘an officer’ of the 46th Precinct.

§ 87(2)(b) alleged that as officers entered § 87(2)(b) a black female officer struck her about the legs with an asp. No black female officers were identified during the course of the investigation as responding to this incident. As such, this allegation has been pleaded against ‘an officer’ of the 46th Precinct.

Allegations Not Pleaded

- **Entry:** Although other officers besides PO Pineda entered the location, as PO Pineda was the first to do so, and as there is no indication that the only supervisor who responded to the scene, Sgt. Edward Arias (encl. [5AX-BA]), was present on scene at the time entry was effected, no other allegation of an entry has been pleaded.
- **Force:** In her intake statement, § 87(2)(b) alleged that an officer closely matching PO Reyes’s description pushed her younger daughter, § 87(2)(b) as they approached where § 87(2)(b) was being handcuffed. § 87(2)(b) also alleged that unidentified officers pushed her and her other daughter, § 87(2)(b) away as they approached § 87(2)(b). It is contextually clear that the force alleged was used to maintain a safe distance between officers attempting to handcuff § 87(2)(b) and the civilians, and is so minor that it does not rise to the level of misconduct. As such, no corresponding allegation has been pleaded.
- **Force:** § 87(2)(b) in her intake statement alleged that multiple unidentified uniformed and plainclothes officers punched and scratched her other son, § 87(2)(b). This was not repeated in her in-person statement. § 87(2)(b) did not respond to repeated contact attempts. As such, this allegation has not been pleaded.
- **Force:** PO Almeida (encl. [5BB-BF]) acknowledged using some physical force to assist PO Reyes and PO Accomando in handcuffing § 87(2)(b). However, it was alleged that only the first two officers to arrive on scene, PO Reyes and PO Accomando, used

any physical force against him. As such, no allegation of physical force has been pleaded against PO Almeida.

- **Force:** § 87(2)(b) alleged that in the course of entering her house, PO Pineda struck her with the front door, an unidentified officer struck her on the lip, while other officers stepped on her. Because § 87(2)(b) could not tell whether officers did this deliberately or accidentally, and as it was done in the course of effecting the entry, this allegation has been subsumed under the entry allegation and has not separately been pleaded.
- **Property damage:** § 87(2)(b) alleged that PO Pineda kicked down the bedroom door in which he barricaded himself, causing unspecified damage to the door. As this damage occurred during the course of the entry into the location, this allegation has been subsumed under the entry allegation and has not separately been pleaded. Additionally, § 87(2)(b) alleged that an officer struck a wall inside § 87(2)(b)'s house with an asp, causing damage to it. § 87(2)(b) provided pictures of this damage (encl. [4AD]). As § 87(2)(b) the owner of the home and therefore the victim of this allegation, did not allege this, and as § 87(2)(b) did not cooperate with the investigation, no corresponding allegation has been pleaded.
- **Discourtesy:** § 87(2)(b) alleged in her intake statement that multiple officers who she could not describe called § 87(2)(b) a “bitch.” As this was not repeated in her in-person statement, and as § 87(2)(b) did not himself allege this, no corresponding allegation has been pleaded. § 87(2)(b) in her intake statement also reported that unknown civilians told her that inside § 87(2)(b) an unidentified officer said, “I don’t give a fuck,” though § 87(2)(b) did not herself witness this. As this was not alleged in any other civilian statement, no corresponding allegation has been pleaded.
- **Threat:** § 87(2)(b) alleged that an unidentified officer told § 87(2)(b) “I’m going to get you.” Because § 87(2)(b) did not himself allege this, and because the language is so vague that its precise meaning cannot be determined, no corresponding allegation has been pleaded.
- **Gun pointed:** § 87(2)(b) in her intake statement said that § 87(2)(b) told her that an unidentified officer had pointed a gun at him, though § 87(2)(b) did not herself see this and § 87(2)(b) did not allege this in his telephone statement. Therefore no corresponding allegation has been pleaded.
- **Refusal to obtain medical attention:** § 87(2)(b) said that while he was in the holding cells at the 46th Precinct stationhouse, he asked two officers, neither of whom were at the scene of his arrest, for medical attention, as his knee hurt and his eyes burned. The officers said they would obtain medical attention for him, but it never arrived, and § 87(2)(b) stopped asking. He did not request medical attention from his arresting officer or from EMS at Central Booking. As there is no indication that any officer actually refused to obtain treatment for § 87(2)(b) this allegation has not been pleaded.

Allegation A – Force: In the vicinity of East § 87(2)(b) in the Bronx, PO Thomas Accomando used physical force against § 87(2)(b)

Allegation B – Force: In the vicinity of East § 87(2)(b) in the Bronx, PO Luis Reyes used physical force against § 87(2)(b)

Allegation F – Discourtesy: In the vicinity of East § 87(2)(b) in the Bronx, PO Carlos Pineda spoke rudely to § 87(2)(b)

Allegation G – Force: In the vicinity of East § 87(2)(b) in the Bronx, an officer struck § 87(2)(b) with an asp.

Allegation K – Discourtesy: Inside § 87(2)(b) in the Bronx, an officer spoke rudely to § 87(2)(b)

Allegation L – Abuse of Authority: Inside § 87(2)(b) in the Bronx, an officer threatened § 87(2)(b) with the use of force.

Multiple attempts were made to reach § 87(2)(b) but contact was never established with him. Despite repeated contact attempts, § 87(2)(b) and § 87(2)(b) provided telephone statements but did not ultimately cooperate with the investigation. § 87(2)(b), § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

Allegation C – Discourtesy: In the vicinity of East § 87(2)(b) in the Bronx, PO Rafael Perdomo spoke rudely to § 87(2)(b)

§ 87(2)(b) (encl. [4F-O]) said that he had been celebrating a birthday in front of § 87(2)(b). Beer and liquor were served at the party. § 87(2)(b) denied consuming any alcohol and did not know if § 87(2)(b) who had been a guest at the party, did. When § 87(2)(b) heard that § 87(2)(b) was being arrested, he ran to see what was going on. § 87(2)(b) alleged that as he came within seven or eight feet of where § 87(2)(b) was being handcuffed and screamed, “What’s going on?” PO Perdomo approached him, brandished his asp, and said either, “Get the fuck away from me,” or, “Move the fuck back.” § 87(2)(b) estimated that there were approximately 20 other civilians gathered on scene at this time telling officers, “Stop! § 87(2)(b) s not resisting!”

§ 87(2)(g) (encl. [4P-AF]).

PO Perdomo (encl. [5AH-AL]) responded to the scene after PO Reyes and PO Accomando requested additional units. When he arrived, he saw approximately 20 screaming civilians gathering within a couple of feet of where PO Reyes and PO Accomando were handcuffing § 87(2)(b). PO Perdomo saw § 87(2)(b) running towards PO Reyes and PO Accomando with his fists balled up and yelling, leading PO Perdomo to believe § 87(2)(b) intended to interfere in the arrest of § 87(2)(b). As § 87(2)(b) came within two or three feet of the officers, PO Perdomo drew his asp but did not brandish or attempt to strike him with it and said, “Move back.” § 87(2)(b) put both of his hands up and began to backpedal. PO Perdomo denied saying, “Move the fuck back,” or, “Get the fuck away from me.”

This account was generally corroborated by PO Reyes (encl. [5AB-AG]) and PO Accomando (encl. [5A-AA]).

Profanity is not to be used by members of the police department except during stressful street encounters or to gain compliance from an uncooperative civilian. PD v. Court, OATH Index No. 79627/04 (encl. [1A-J]).

It is not disputed that there were many civilians present at the scene of § 87(2)(b) s arrest, some of whom were irate and possibly intoxicated, and that the scene had not been contained or controlled at the time § 87(2)(b) approached, especially as PO Reyes and PO Accomando were still in the process of handcuffing § 87(2)(b). It is also not disputed that § 87(2)(b) came very close to where § 87(2)(b) was being handcuffed. § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

Allegation D – Force: In the vicinity of East § 87(2)(b) in the Bronx, PO Rafael Perdomo struck § 87(2)(b) with an asp.

§ 87(2)(b) said that PO Perdomo struck him with his asp on the back of his left knee once, causing stinging, swelling, and a small welt. § 87(2)(b) then raised his arms up at his side and walked backwards away from where § 87(2)(b) was being handcuffed.

§ 87(2)(b) did not receive medical treatment until September 18, 2014, when he went to § 87(2)(b) (see medical records folder). § 87(2)(b) sought medical treatment again on § 87(2)(b), at § 87(2)(b). On both occasions he complained that he had injured his left pinky finger playing basketball about five days to a week prior to his visit. Aside from a fractured pinky, no other injuries were noted. § 87(2)(b) did not complain of any other injuries and did not mention his altercation with police officers.

The allegation of the asp strike was not corroborated in any other civilian testimony (encl. [4P-AF]).

PO Perdomo acknowledged that he drew his asp, but said he never struck any civilian with it, and only held it in his hand, thinking that the mere sight of the asp would be enough to deter any civilians on scene from interfering in § 87(2)(b)'s arrest. None of the other officers interviewed acknowledged striking any civilian with an asp, or seeing any officer do so.

Officers must use the minimum force necessary to effect an arrest. Patrol Guide 203-11 (encl. [1K-L])

§ 87(2)(b), § 87(2)(g)
§ 87(2)(b)
§ 87(2)(b)

Allegation E – Abuse of Authority: PO Carlos Pineda entered § 87(2)(b) in the Bronx.

It is undisputed that officers, led by PO Pineda, entered § 87(2)(b) in the Bronx.

§ 87(2)(b) said that once PO Perdomo struck him with the asp, he ran back to his residence at § 87(2)(b) and was pursued by multiple officers, including a Hispanic female identified as PO Carasquillo. § 87(2)(b) did not know why he was pursued and while officers said something to him that he did not recall, they did not tell him to stop. § 87(2)(b) reached his house and stood at the top of the stairs leading to the front door. § 87(2)(b) and § 87(2)(b) stood at the bottom of the steps. When PO Carasquillo arrived, she stood at the bottom of the steps and brandished her asp in front of her body while speaking to § 87(2)(b) and § 87(2)(b) though § 87(2)(b) did not specify what PO Carasquillo said. Believing that PO Carasquillo intended to strike § 87(2)(b) (though PO Carasquillo never actually did so), § 87(2)(b) reached down and pulled § 87(2)(b) back. § 87(2)(b) denied making contact with PO Carasquillo. PO Pineda asked § 87(2)(b) if he was “messing with a female,” and rushed towards him, at which time § 87(2)(b) ran inside his house and locked himself in the bedroom. PO Pineda and other officers followed almost immediately after, and broke down the bedroom door.

Other civilians, including § 87(2)(b) (encl. [4P-U]) and § 87(2)(b) (encl. [4V-AA]) in their in-person statements, as well as the telephone statements § 87(2)(b) (encl. [4AB]), § 87(2)(b) (encl. [4AC-AD]), and § 87(2)(b) (encl. [4AE-AF]) provided, generally corroborated this account. None of them saw § 87(2)(b) strike PO Carasquillo.

PO Pineda (encl. [5AM-AR]) said that as he attempted to conduct crowd control, he saw § 87(2)(b) strike PO Carasquillo in her chest before turning and running into § 87(2)(b). PO Pineda did not know what, if anything, preceded § 87(2)(b)'s strike. At that juncture, PO Pineda considered § 87(2)(b) to be under arrest for assaulting a police officer, a felony crime with which he was later charged, and followed him at a distance of a few

feet as he ran into the house. PO Pineda did not have sufficient time to tell § 87(2)(b) that he was under arrest as the pursuit occurred over a period of seconds. Aside from effecting § 87(2)(b)'s arrest, PO Pineda had no other reason to enter the premises. PO Pineda saw § 87(2)(b) running into a bedroom, the door to which § 87(2)(b) then locked. PO Pineda repeatedly struck the door with his shoulder until it opened, at which time he entered the bedroom and arrested § 87(2)(b). PO Pineda estimated that less than a minute elapsed between when he saw § 87(2)(b) punch PO Carasquillo and when he entered the bedroom to arrest him.

PO Carasquillo (encl. [5AS-AW]) generally corroborated this statement, but did not remember what led her to the steps in front of § 87(2)(b) in the first place, and noted that she was disoriented after the blow from § 87(2)(b) and did not remember what exactly happened thereafter. PO Carasquillo's injuries, which included bruising to her chest as well as whiplash, were documented in AIDED, as well as in § 87(2)(b)'s arrest report (encl. [6A-B]), and she was later brought to § 87(2)(b) Hospital. No LOD paperwork could be located from the 46th Precinct (encl. [6A-B]).

In the absence of a search warrant, officers are only allowed to enter a private residence with consent, in hot pursuit, or under exigent circumstances. People v. Reese, 5 Misc. 3d 1030A (Dist. Ct., Suffolk Co. 2004) (encl. [1M-P]). In order to enter premises under the hot pursuit exception to the Fourth amendment's prohibition against warrantless entry, officers must have probable cause to arrest § 87(2)(b) while he or she is outside the private location to be entered, and the arrest must have been set in motion in a public place prior to the individual's flight into the private location. People v. Skinner, 284 A.D.2d 906 (2001) (encl. [1Q]). The hot pursuit exception applies only in situations where the individual is suspected of a felony offense.

§ 87(2)(b), § 87(2)(g)
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED].

Allegation H – Force: At § 87(2)(b) in the Bronx, PO Carlos Pineda used physical force against § 87(2)(b)

Allegation I – Force: At § 87(2)(b) in the Bronx, officers used physical force against § 87(2)(b)

§ 87(2)(b) alleged that when officers entered the bedroom, he put both of his hands up with his palms out and said, "I give up," at which time PO Pineda punched him on his left cheek, which did not result in any injuries. PO Pineda then brought § 87(2)(b) to the ground, resulting in bruises to his leg. Once on the ground, § 87(2)(b) felt "little hits," described as kicks and punches, to his back, legs, and to the back of his head, causing "little bruises," which continued even after he had been placed in handcuffs. § 87(2)(b) did not actually see the officers doing this, but assumed there must have been more officers than just PO Pineda, as PO Pineda could not have caused these numerous "little hits" himself. PO Pineda told § 87(2)(b) to stop resisting, though he denied resisting. § 87(2)(b) believed the pinky finger on his left hand was fractured during his arrest, but did not know specifically how this injury was sustained, or who caused it.

No injuries are visible to § 87(2)(b) in his arrest photograph (encl. [6A-B]). § 87(2)(b) claimed to have pictures of the bruises to his legs, but never provided them. § 87(2)(b) did not obtain medical treatment until he went to § 87(2)(b) on § 87(2)(b), and then to § 87(2)(b) Hospital on § 87(2)(b), nearly a month after the incident (see medical records folder). During both hospital visits, § 87(2)(b) did

not complain of any injuries aside from a fractured pinky, which he said he sustained playing basketball. § 87(2)(b) did not mention his encounter with the police during either hospital visit.

§ 87(2)(b) confirmed that she saw PO Pineda punch § 87(2)(b) but she did not specify where on his body, how many times he was punched, or what § 87(2)(b) was doing at the time he was punched. § 87(2)(b) said at some juncture from outside § 87(2)(b) he looked in through a bedroom window and saw two police officers who he could not describe hovering above § 87(2)(b), who was face-down on the ground. § 87(2)(b) did not otherwise see any physical force used. None of the other civilians who provided statements witnessed the apprehension of § 87(2)(b) and attempts to contact other individuals who may have witnessed his apprehension were not successful.

PO Pineda said that when he entered the bedroom, he ordered § 87(2)(b) to get down on the ground. When § 87(2)(b) did not comply, PO Pineda reached to grab his right hand. § 87(2)(b) struck PO Pineda on his left cheek, causing swelling and redness. Although PO Pineda did not obtain medical treatment as he did not feel his injury was serious, his injury is documented in one of the complaint reports attached to § 87(2)(b)'s arrests (encl. [6A-B]). PO Pineda then placed § 87(2)(b) in what he described as an "arm-bar" beneath his right shoulder and brought him face-down to the ground, at which point § 87(2)(b) tucked his arms beneath his body. PO Pineda and another officer who he could not identify each grabbed one of his arms and pulled them behind his back.

PO Perdomo said that four or five other officers entered the location ahead of him, and that there were so many officers attempting to handcuff § 87(2)(b) that he could not reach him. These officers brought § 87(2)(b) who was attempting to kick and punch officers, to the ground, whereupon they pulled his hands behind his back. It took 20 to 25 seconds to handcuff § 87(2)(b). During the struggle, one of § 87(2)(b)'s kicks made contact with PO Perdomo's shin, causing a scratch. PO Perdomo did not obtain medical treatment but his injury is documented in one of the complaint reports attached to § 87(2)(b)'s arrests (encl. [6A-B]).

All other officers interviewed either denied or did not recall participating in § 87(2)(b)'s arrest.

Officers must use the minimum force necessary to effect an arrest. Patrol Guide Section 203-11 (encl. [1K-L])

§ 87(2)(b), § 87(2)(g)

Allegation J – Force: At § 87(2)(b) in the Bronx, an officer used pepper spray against § 87(2)(b)

§ 87(2)(b) alleged that once he was handcuffed and lying face down on the ground, an officer who he could not identify discharged pepper spray in his face. There are no signs of pepper spray use in § 87(2)(b)'s arrest photograph (encl. [6A-B]), nor is the use

of O.C. spray noted in any other police documentation, such as the command log or in a medical treatment of prisoner form.

§ 87(2)(b) said § 87(2)(b) appeared to have mucus on his face as he was escorted out of the house, leading him to believe he may have been pepper sprayed. Aside from this, there was no other civilian corroboration that § 87(2)(b) was pepper sprayed.

PO Pineda denied discharging his pepper spray at § 87(2)(b). However, as he struggled to pull one of § 87(2)(b)'s arms out from beneath his body so that he could be handcuffed, he smelled pepper spray. PO Pineda did not see who pepper sprayed § 87(2)(b) and did not remember if it affected him in any way. PO Pineda characterized § 87(2)(b)'s resistance at the time he first smelled the pepper spray as passive.

All other officers interviewed denied pepper spraying § 87(2)(b) or seeing any officer do so, and all said there was no indication that pepper spray had been used against § 87(2)(b).

O.C. pepper spray may be used when a police officer reasonably believes it is necessary to effect an arrest of a resisting suspect. Pepper spray will not be used on subjects who passively resist. Patrol Guide Section 212-95 (encl. [1R-U]).

§ 87(2)(b), § 87(2)(g)
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED].

Allegation M – Discourtesy: En route to the 46th Precinct stationhouse, an officer spoke rudely to § 87(2)(b)

As discussed in the officer identification section, the investigation was not able to identify the officer who allegedly told § 87(2)(b) “You’re not getting shit.” § 87(2)(g)

Allegation N – Discourtesy: Inside the 46th Precinct stationhouse, PO Daniel Almeida spoke rudely to § 87(2)(b)

Allegation O – Abuse of Authority: Inside the 46th Precinct stationhouse, PO Thomas Accomando refused to provide his name and shield number to § 87(2)(b)

§ 87(2)(b) alleged that as he was being lodged in the holding cell, PO Almeida told him, “Get your ass in there.” § 87(2)(b) also alleged that as PO Accomando, who was dressed in plainclothes and did not display his shield, fingerprinted him, he asked for his name and shield number. PO Accomando did not provide it and told him to stop asking questions.

PO Almeida denied using any profanity or hearing any officer use profanity, as did all officers interviewed. PO Accomando denied hearing any request from § 87(2)(b) for his name and shield number, and denied that he ever refused to provide it, as did all other officers interviewed.

§ 87(2)(b), § 87(2)(g)
[REDACTED]
[REDACTED]
[REDACTED].

Team: _____

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| Investigator: | _____ | _____ | _____ |
| | Signature | Print | Date |

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| Supervisor: | _____ | _____ | _____ |
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